

ORDINANCE NUMBER 699

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, AMENDING THE COTTONWOOD MUNICIPAL CODE BY ADDING CHAPTER 2.40, MUNICIPAL COURT, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council finds it necessary and appropriate to reaffirm, restore and/or add Chapter 2.40, Municipal Court, to the Cottonwood Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

Section 1. That Chapter 2.40, Municipal Court, is hereby added to the Cottonwood Municipal Code, as follows:

Chapter 2.40 – Municipal Court

Chapter 2.40.010 - Established—Jurisdiction.

There is established in the city a municipal court which shall have jurisdiction of all violations of this code, and jurisdiction concurrently with justices of the peace of precincts in which the city is located, of violation of laws of the state committed within the limits of the city.

2.40.020 - City municipal justice—Appointment.

The presiding officer of the municipal court shall be the city municipal justice, who shall be appointed by and shall serve at the pleasure of the council. The municipal justice shall receive such compensation as the council may from time to time fix by resolution.

2.40.030 - City municipal justice—Powers and duties.

The powers and duties of the municipal justice shall include:

- A. The powers and duties set forth and conferred upon him under the provisions of the State Constitution and statutes, this code and the ordinances and resolutions of the city;
- B. The keeping of a docket in which shall be entered each action and the proceedings of the court therein;
- C. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other moneys as provided by law;
- D. Payment of all fees, fines, penalties and other moneys collected by the court to the treasurer;
- E. Submitting a monthly report to the council summarizing court activities for that month;
- F. Preparation of a schedule of traffic violations not involving the death of a person, listing specific bail for each violation.

2.40.040 - Location and hours of court.

The council shall provide a suitable place for the police court and the court shall be open for transaction of business on such days and during such hours as the council may from time to time by resolution direct.

2.40.050 - Proceedings.

- A. The proceedings shall be conducted in accordance with the State Constitution, the applicable state statutes and rules of the State Supreme Court pertaining to municipal courts. The proceedings shall also be conducted in accordance with the rules of criminal procedure for the superior court, unless otherwise prescribed, and providing this code and resolutions of the city are not in conflict therewith.
- B. The municipal court proceedings shall be commenced by complaint under oath and in the name of the state setting forth the offense charged with and such particulars of time, place, person and property as to enable the defendant to understand distinctly the character of the offense complained of and to answer the complaint.
- C. If the municipal justice is satisfied that the offense complained of has been committed by the person charged, he shall issue a summons or a warrant of arrest. Before issuing a summons or warrant of arrest on a complaint, the municipal justice may subpoena and examine witnesses as to the truth of the complaint.

- D. The right of trial by jury shall be granted in all cases of such a nature as are triable before a jury at common law and as are triable by jury under the Constitution and laws of the state.

2.40.060 - Jurors compensation.

Each juror for every day of attendance in the municipal court shall be paid the sum of four dollars by the city.

2.40.070 - Civil traffic default fee.

The municipal court shall assess the defendant a default fee of fifty dollars for each default judgment entered in a civil traffic violation case upon failure to appear or failure to pay a civil sanction, unless such default judgment is set aside under Rule 28, Rules of Procedure in Civil Traffic Cases (as amended).

2.40.080 - Warrant fee.

When the court issues a warrant for failure to pay a fine, sanction, restitution, or agency fees, or issues an order to show cause (OSC) to enforce probation or court-ordered counseling or school, an administrative fee of one hundred dollars shall be imposed on the person for whom the arrest warrant is issued, or the defendant found in violation at the conclusion or default in an OSC hearing, and it shall be added to the amount set forth in an arrest warrant.

2.40.090 - Municipal court enhancement fund.

There is hereby created a court enhancement fund that shall be used exclusively to enhance the technological, operational and security capabilities of the court. The enhancement fund shall be maintained by the addition of from ten dollars to fifty dollars, to be set in an amount in the court's discretion, plus any required surcharges, on all fines, sanctions, assessments, and diversion or probation programs, including defensive driving, domestic violence, and substance abuse counseling.

2.40.100 - Collection fees.

In the event the court engages a collection agency licensed pursuant to Title 32, Chapter 9, Article 2, Arizona Revised Statutes, to collect monies due the court for fines, sanctions, restitution, surcharges, assessments, penalties bonds or other fees, the defendant shall be liable for all costs of collection, including fees charged by the agency and attorney fees.

2.40.110 - Court-appointed counsel fee.

In addition to court-appointed attorney reimbursement costs, the court may impose an administrative assessment fee not to exceed twenty-five dollars used to defray the costs of court-appointed counsel for indigent defendants. Fees collected shall be paid into the enhancement fund.

2.40.120 - Waiver of fees.

The court may waive all or part of the above fees when it would be in the best interests of justice, such as causing an undue hardship on the defendant, the defendant has previously been found to be indigent by the court, or the defendant has presented a reasonable explanation for missed appointments with the court or another agency, except fees charged by a collection agency may not be waived if any collection agreement with the court so provides.

2.40.130 - Diversion/deferred prosecution fee.

The municipal court shall assess defendants for criminal cases involving deferred prosecution or diversion programs, a diversion/deferred prosecution fee in the amount of one dollar to five hundred dollars, to be set in an amount in the court's discretion. Said fee must be paid before the case may be dismissed pursuant to a diversion agreement or deferred prosecution agreement with the City of Cottonwood Prosecutor. The municipal court may waive all or part of the fee when it would be in the interests of justice pursuant to Municipal Code Section 2.40.120, Waiver of Fees. Such fee shall be in addition to any other fees required by state law or by the Cottonwood Municipal Code.

2.40.140 - Home detention and continuous alcohol monitoring.

- A. If a person is sentenced to jail confinement by the municipal court, the court may substitute home detention or continuous alcohol monitoring or both for a portion of the jail term as provided in this section.
- B. A person is not eligible for home detention or continuous alcohol monitoring when substituted for jail if any of the following apply:
 - 1. The person constitutes a risk to himself or other members of the community;
 - 2. The person has a history of violent behavior;
 - 3. The sentencing judge states at the time of the sentence that the person may not be eligible for a home detention program; or
 - 4. The person is not eligible under Section 9-499.07 of the Arizona Revised Statutes.
- C. Any person placed on home detention or continuous alcohol monitoring may be ordered to serve one day in jail, except as provided in Subsection D. The person shall pay the cost of incarceration.
- D. If the person is sentenced under Section 28-1381, Subsection K or Section 28-1382, Subsection D or E of the Arizona Revised Statutes, the person must first serve a minimum of twenty percent of the initial term of incarceration in jail before being placed under home detention or continuous alcohol monitoring.
- E. A person placed under home detention shall be subject to electronic monitoring in the person's home and shall be required to remain at home during the hours specified by the court. If a person is sentenced under Section 28-1381 or 28-1382 of the Arizona Revised Statutes, the person shall be tested at least once daily for the use of alcohol or drugs in a manner approved by the court.
- F. If the person attends educational classes or is employed, the court may permit the person to attend classes or leave home for employment during specified hours. The court may permit the person to attend religious services, funerals, or seek medical care.
- G. The court may require a person under home detention to participate in community service work or impose other reasonable requirements or restrictions the court deems necessary.
- H. A person under home detention or continuous alcohol monitoring shall be required to pay the full cost of the electronic monitoring and alcohol or drug testing plus thirty dollars. The court may assess a lesser amount based on the ability of the person to pay.
- I. The court shall terminate a person's home detention or continuous alcohol monitoring and require the person to complete the remaining term of the jail sentence by jail confinement if the court finds the person has not successfully

completed court ordered alcohol or drug screening and treatment pursuant to Section 28-1381 or 28-1382 of the Arizona Revised Statutes, or the person has improperly left the home during home detention, or failed to comply with the continuous alcohol monitoring program requirements. The court may terminate a person's home detention or continuous alcohol monitoring and require jail confinement for any other violation of the terms of the home detention or continuous alcohol monitoring order.

- J. The court may use continuous alcohol monitoring alone or in conjunction with any other sentence requirements as a term of probation.

Section 2. That if any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions hereof.

Section 3. That, in order to preserve the public peace, health and safety, an emergency is hereby declared to exist, and this Ordinance shall become effective immediately upon its approval by no less than three-fourths of the members of the City Council, taken by ayes and noes, and approval by the Mayor.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR
OF THE CITY OF COTTONWOOD, ARIZONA, THIS 6TH DAY OF APRIL 2021.

Tim Elinski, Mayor

APPROVED AS TO FORM:

ATTEST:

Steven B. Horton, Esq.
City Attorney

Marianne Jiménez, City Clerk